

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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J'KENDRIC JIRELLE AGEE,

Plaintiff,

v.

24-CV-6529-CJS  
ORDER

DEPUTY NICHOLAS REDENBACH,  
DEPUTY CHARLENE RUTKOWSKI,  
DEPUTY CHARLES GOUPIL,<sup>1</sup>

Defendants.

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*Pro se* plaintiff J'Kendric Jirelle Agee ("Plaintiff") is an inmate confined at Upstate Correctional Facility. He filed a complaint requesting relief under 42 U.S.C. § 1983. ECF No. 1. He also filed an application to proceed *in forma pauperis*. ECF No. 2.

On December 16, 2024, the Court entered an order granting the application to proceed *in forma pauperis* and screening Plaintiff's complaint. ECF No. 11. That order permitted Plaintiff to file an amended complaint repleading his false arrest and malicious prosecution claims against Niagara County Sheriff's Deputies Nicholas Redenbach, Charlene Rutkowski, and Charles Goupil. *Id.* at 2, 21-23, 36. After granting Plaintiff an extension of time to file, ECF No. 15, the Court is now in receipt of the amended complaint, ECF No. 16.

Plaintiff's amended complaint cures the pleading deficiencies identified by the Court in its original screening order and presents colorable false arrest and malicious

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<sup>1</sup> The Clerk of Court is requested to amend the docket as set forth above.

prosecution claims. Although it may later come to light that there was probable cause to arrest and prosecute Plaintiff, that *Heck v. Humphrey* bars his claims, 512 U.S. 477 (1994), or that the amended complaint is subject to dismissal on another basis, the amended complaint survives screening under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b) and will proceed to service upon deputies Nicholas Redenbach, Charlene Rutkowski, and Charles Goupil. See *Pino v. Ryan*, 49 F.3d 51, 53 (2d Cir. 1995) (explaining that dismissal under Federal Rule of Civil Procedure 12(b)(6) still may be appropriate notwithstanding a court's earlier finding that the complaint was not "frivolous" for purposes of section 1915(e)(2)).

### **ORDER**

IT HEREBY IS ORDERED that the Clerk of Court shall cause the United States Marshal to serve copies of the summons, the amended complaint (ECF No. 16), and this order upon Niagara County Sheriff's Deputies Nicholas Redenbach, Charlene Rutkowski, and Charles Goupil without Plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in Plaintiff's favor; and it is further


ORDERED that the Clerk of Court is directed to forward a copy of this order and a copy of Plaintiff's amended complaint (ECF No. 16) by email to Claude A. Joerg, Niagara County Attorney, Claude.Joerg@niagaracounty.com; and it is further

ORDERED that once served, the defendants shall answer the amended complaint or respond under 42 U.S.C. § 1997e(g); and it is further

ORDERED that pursuant to Western District of New York Local Rule of Civil Procedure 5.2(d), Plaintiff must immediately notify the Court in writing each time his address changes. Failure to do so may result in dismissal of the action with prejudice.

SO ORDERED.

Dated: April 30, 2025  
Rochester, New York

  
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CHARLES J. SIRAGUSA  
United States District Judge